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PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003				
EXAMINER				
CHAPMAN, GINGER T				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/656,428

**Applicant(s)**

POCCIA ET AL.

**Examiner**

Ginger T. Chapman

**Art Unit**

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-5,7-10,19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-10 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/5/03 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **Status of the claims**

1. Claims 2, 6, and 11-18 are cancelled, claims 19-20 are added, claims 1, 3-5, 7-10 and 19-20 are pending in the application.

### **Withdrawn rejections:**

2. With respect to claim 1, the rejection of claim 1 under 35 U.S.C 112, first paragraph is withdrawn in view of the specific embodiment of the claimed invention on pages 18-19 of the Specification, and in view of the amendment to the claim.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 5 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruffo (US 3,523,536) in view of Ryan et al (US 5,019,062), and further in view of Hanssen et al (US 5,589,256).

4. With respect to claim 1, Ruffo discloses wound contacting pad (c. 1, l. 9) (figs. 1 and 2) comprising an absorbent nonwoven fabric (20) comprising absorbent fibers (c. 4, l. 55) and synthetic nonwoven fibers selected from the group consisting of rayon and wood pulp (c. 4, ll. 55-60), and having a density from about 0.01 g/cc to 0.05 g/cc (c. 4, l. 4), said nonwoven fabric

(20) having a first major surface and a second major surface (c. 3, l. 38; fig. 2); and a film (24) secured to at least one major surface.

5. Ruffo discloses the claimed invention except for the bandage being an adhesive bandage. As seen in Figure 4 and at c. 43, ll. 45-60, Hanssen teaches an adhesive bandage. Therefore it would have been obvious to one having ordinary skill in the art to form the wound contacting pad of Ruffo for an adhesive bandage as taught by Hanssen since Hansen states at c. 45-60 that benefit of forming the pad with this design is that adhesively mounting pads to remain in place to absorb blood and other bodily fluids from a wound as is well known in the bandage art.

6. Ruffo discloses the invention substantially as claimed except for the film being apertured. As seen in Figure 1 and at c. 3, ll. 40-55, Ryan teaches an apertured film (10) secured to at least one major surface of a nonabsorbent fabric (10') comprising fibers. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the modify the film of Ruffo as taught by Ryan since there is no change in it's respective function and Ryan states at c. 2, ll. 50-55 and c. 3, ll. 19-20, that the benefit of forming a bandage with this design is that it absorbs bodily fluids, i.e. wound exudates, while remaining dry and nonirritating to the skin of the wearer thereby providing less irritating bandage.

7. Ruffo discloses the claimed invention except for a basis weight of from about 30 gsm to about 150 gsm. It is known in the absorbent nonwoven art that basis weight, density and thickness of the nonwoven are result effective variables that can be varied to tailor an article for an intended end use. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the basis weight of Ruffo since it has been held

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that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

8. With respect to claim 3, Ruffo discloses the claimed invention except for bicomponent fibers. As seen in Figure 1 and at c. 1, ll. 19-45, Pike et al disclose an absorbent article (10) comprising: an absorbent nonwoven fabric (12), apertured film (14) wherein the fibers comprising the nonwoven fabric are bicomponent fibers (col. 6, l. 63 and col. 3, ll. 41-42). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the article of Ruffo of bicomponent fibers as taught by Pike since Pike states, at c. 1, ll. 19-45, that the benefit of using fibers with this design is that they are useful in bandages and wound contacting pads.

9. With respect to claim 5, Ruffo teaches the film (24) comprises polyethylene (c. 4, l. 73). With regard to claims 7 and 8, Ruffo discloses the claimed invention except for the open area of the apertured film ranges from about 5 percent to about 30 percent of the total area. Ryan teaches the open area of the apertured film ranges from about 5 percent to about 30 percent of the total area (c. 7, ll. 13-14). It is known in the art that the amount of open aperture area can be tailored for an intended degree of permeability balanced with the strength of the film to resist tearing under strain. Therefore it would have been obvious to one having ordinary skill in the art to modify the range of open area of Ruffo as taught by Ryan to obtain the claimed range since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

10. With respect to claim 9, Ruffo discloses a top layer (22).

11. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruffo /Ryan/Hanssen in view of Pike (US 6,352,948).

12. With respect to claim 4, Ruffo discloses the claimed invention except for the nonwoven fabric claimed ratio of blended fibers. Pike teaches a nonwoven fabric (12) comprising a blend (col. 4, l. 9) of from about 70% to about 95% by weight of synthetic non-absorbent fibers and from about 5% to about 30% by weight of absorbent fibers (col. 3, ll. 56-58). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the fibers of Ruffo as bicomponent fibers of the claimed basis weight and ratio since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

13. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruffo/Ryan/Hansen as applied to claim 9 above, and further in view of Sheth et al (US 4,777,073).

14. With regard to claim 10, the Ruffo/Ryan/Hansen disclose the claimed invention except for the top layer material is microporous film. As described in examples 2-5 (c. 5, ll. 39-53), Sheth teaches microporous films for adhesive bandages and wound contacting pads. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the film of Ruffo/Ryan/Hansen as a microporous film as taught by Sheth since Sheth states at c. 6, ll. 66-68 and at c. 7, ll. 2-4 that such films are suitable for breathable medical and surgical applications such as bandages.

15. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruffo/Ryan/Hansen as applied to claim 1 above, and further in view of Sun et al (US 6,600,085).

16. With respect to claims 19 and 20, Ruffo/Ryan/Hansen disclose the claimed invention except for protrubences oriented to face into at least one major surface of the nonwoven fabric to which the film is secured. As seen in Figures 2, 3 and 6, Sun teaches protrubences oriented to face into a major surface of a nonwoven fabric to which apertured film is secured to comprise an adhesive bandage. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the bandage of Ruffo/Ryan/Hansen as taught by Sun since Sun states, at c. 1, ll. 47-56, that the advantage to forming an adhesive bandage with this design is that it increase the amount of wound exudate that can be absorbed.

#### ***Response to Arguments***

17. Applicant's arguments with respect to claims 1-10 and 13 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on

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the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginger T. Chapman whose telephone number is (571)272-4934. The examiner can normally be reached on Monday through Friday 9:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ginger T Chapman/

Examiner, Art Unit 3761

3/1/08

/Tatyana Zalukaeva/

Supervisory Patent Examiner, Art Unit 3761